

Application No. 09/744,622
Amendment dated May 18, 2006
After Final Office Action of November 30, 2005

Docket No.: HO-P01615US1

REMARKS

In response to the Advisory Action, in which the Examiner did not enter the claims, Applicants assert that Claims 64-85 are pending. Claims 1-5, 7-14 and 53-63 have been canceled without prejudice and without acquiescence. Claims 64-85 have been added. Support for these claims can be found throughout the entire specification, more specifically, the canceled claims 58 and 60-63. The Examiner has indicated that the subject matter of claims 58 and 60-63 is enabled and would not be obvious in view of Rubin (US Patent No. 4,481,195), thus Applicants assert that claims 64-85 are enabled and not obvious in view of Rubin and request that the Examiner issue a Notice of Allowance. Applicants retain the right to file a continuation and/or divisional application on any canceled subject matter. Applicants assert that no new matter has been added.

The issues outstanding in this application are as follows:

- Claim objection
- Claims 5, 7-14 and 59 are rejected under 35 U.S.C. 112, first paragraph as the specification does not enable any person skilled in the art to practice the invention.
- Claims 13 and 14 are rejected under 35 U.S.C. 112, second paragraph as being indefinite.
- Claims 1-5, 7-14 and 57-60 are rejected under 35 U.S.C. § 102(b) as being anticipated by Rubin (US 4,481,195).

Applicant respectfully traverses the outstanding objections and rejections, and applicant respectfully requests reconsideration and withdrawal thereof in light of the amendments and remarks contained herein.

I. Claim Objections

The Examiner has objected claims 55, 58-59, and 61-63. In order to advance the prosecution of the present invention, Applicants cancel claims 55, 58-59, and 61-63 without prejudice and without acquiescence.

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II. 35 U.S.C. 112

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A. First paragraph

Claims 5, 7-14 and 59 are rejected under 35 U.S.C. 112, first paragraph, because the specification while being enabling for the treatment of Non-Hodgkin's lymphoma, prostate, carcinoma, glioblastoma multiforme or Kaposi's sarcoma, infections that result from *Borrelia burgdorferi*, *Mycobacterium leprae*, *Treponema pallidum*, HIV, hepatitis C, herpes virus or papillomavirus or infestations that result from *Candida*, *Sporothrix schenckii*, *Histoplasma*, *paracoccidioides*, *Aspergillus*, *Leishmania*, malaria, *acanthamoeba* or cestodes does not reasonably provide enablement for the treatment of malignancies, i.e., cancer in general, infections in general, infestations in general or all other medical conditions. Applicants traverse.

In order to advance prosecution of the present invention, Applicants have canceled without prejudice and without acquiescence claims 5, 7-14 and 59. In view of this amendment, Applicants request that the rejection be withdrawn.

B. Second paragraph

Claims 13 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Applicants traverse.

In order to advance prosecution of the present invention, Applicants have canceled without prejudice and without acquiescence claims 5, 7-14 and 59. In view of this amendment, Applicants request that the rejection be withdrawn.

III. 35 U.S.C. 102

Claims 1-14 and 54 are rejected under 35 U.S.C. 102(b) as being anticipated by Rubin (US Patent No. 4,481,195). Applicants traverse.

In order to advance the prosecution of the present invention, In order to advance prosecution of the present invention, Applicants have canceled without prejudice and without acquiescence claims 5, 7-14 and 59. In view of this amendment, Applicants request that the rejection be withdrawn.

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CONCLUSION

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 06-2375, under Order No. HO-P01615US1 from which the undersigned is authorized to draw.

Dated: May 17, 2006

Respectfully submitted,

By 

Melissa W. Acosta, Ph.D.

Registration No.: 45,872

FULBRIGHT & JAWORSKI L.L.P.

Fulbright Tower

1301 McKinney, Suite 5100

Houston, Texas 77010-3095

(713) 651-5151

(713) 651-5246 (Fax)

Agent for Applicant